

Remarks/Arguments

In the final Office Action dated May 18, 2010, it is noted that claims 1-13 are pending in the application and stand rejected.

Claims 1-13 have been amended for the purpose of providing additional clarity. Claim 11 has been amended to independent form. Support for the amendments are found at least at page 3, lines 13-29, page 19, lines 13-16 and Figure 6 of the specification as originally filed. No new subject matter has been added.

Claims 1, 11 and 12 are independent.

Cited art

The following references have been cited and applied in the present Office Action: U.S. Patent Number 7,268,791 to Jannink (“Jannink”), U.S. Patent Application Publication 2003/0020237 to Boateng (“Boateng”), and U.S. Patent Application Publication 2002/0040326 to Spratt (“Spratt”).

Claim rejections - 35 U.S.C. 103

Claims 1-7 and 9-13 stand rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Jannink in view of Boateng. Claim 8 stands rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Jannink in view of Boateng and further in view of Spratt. Applicants respectfully traverse these rejections.

Applicants’ claim 1 requires in part: “the positions of said new data elements being randomly defined by the device for processing information at each user request.”

The final Office Action at the top of page 8 acknowledges that Jannink does not teach the features of the positions of said new data elements being randomly defined by the device for processing information at each user request, as set forth in claim 1. In order to remedy the admitted deficiencies in Jannink, the Office combines the teachings of Boateng with Jannink.

Boateng relates to a word game using a deck of playing cards and dice, which allegedly may be embodied as an electronic or computer game in which letters stored in memory and number position and left-right indication are randomly presented upon user request. (Abstract). Boateng, paragraph 0032 and figure 7, appears to suggest a

user actuates the respective keys to cause random selection of a number for display and the random selection of the left or right designation for display.

However, Boateng does not suggest the positions of said new data elements being randomly defined by the device for processing information at each user request. Instead, the display positions of Boateng's electronic word game are fixed at certain locations on the display device. Although the numbers to be displayed in Boateng's electronic game may be a random selection, Boateng's display positions are fixed at the specific locations. Therefore, Boateng's display positions are not random.

For example, Boateng, paragraph 0031 and figure 6 apparently suggests the random selection of a letter and the display of that letter on display 28, and the random selection of a number and the display of that number and position for display on display 30. However, the positions of displays 20 and 30 are not random. Instead, Boateng's display positions are fixed at specific locations on the display.

Furthermore, Boateng uses the word "position," however Boateng is referring to a number which represents the position of the letter shown on a card counted from the left or right of a word (see Boateng Paragraphs 16, 17). "The object of the word game is to think of words that contain the letter on the card, the letter being in the position within the word specified by the die" (Abstract). Boateng is not referring to the position of data elements in a related representation area, as more particularly claimed by applicant.

Boateng does not suggest the positions of said new data elements being randomly defined. Therefore, Boateng fails to cure the deficiencies of Jannink with respect to claim 1.

For the reasons discussed above, Applicants respectfully submit that the combination of Jannink and Boateng does not teach or suggest at least the features as required in claim 1 and discussed above. As such, claim 1 is allowable and the rejection under 35 U.S.C. 103(a) should be withdrawn.

In addition, on page 8, the Office Action concludes that it would have been obvious to one of ordinary skill in the art to combine Boateng and Jannink so that the resultant device would randomly define positions of data elements by a device in accordance with each user's request in order to allow users request data elements randomly and position said data elements randomly.

This conclusory statement does not meet the requirements under the MPEP and the KSR decision. The Supreme Court stated, "*there must be some articulated*

reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added)). While the proper inquiry for motivation is not limited to the overly rigid teaching suggestion motivation (TSM) test the Office cannot simply leapfrog over the requirements using a conclusory statement. As pointed out in the updated Examiner Guidelines it remains Office policy that appropriate factual findings are required in order to apply the enumerated rationales properly. The Office has not made the necessary factual findings and associated reasoning that are crucial to a proper obviousness determination according to the instructions provided in the MPEP.

Applicants respectfully maintain that the Office simply provides conclusory statements to support the combination of Jannink and Boateng in support of the 103 rejection. Nowhere is there any suggestion in Jannink and Boateng for the features of the positions of said new data elements being randomly defined by the device for processing information at each user request, as set forth in claim 1.

Applicants respectfully assert that with respect to claim 1, it would not be obvious for a person having ordinary skill in the art to combine the features of Jannink and Boateng in order to arrive at the claimed invention.

For example, Boateng relates to an electronic word game using a deck of playing cards and dice. However, Jannink discloses a system for visualization of interrelated data items, for example figures 7 & 8 apparently shows relationships among certain data for musical groups. The electronic word game of Boateng is in no way related to or equivalent to Jannink’s system for visualizing interrelated data items. Accordingly, a person having ordinary skill in the art would not combine the teachings of Jannink and Boateng in order to arrive at the claimed invention. Furthermore, there is no finding in the Office Action as to how one of ordinary skill in the art would modify the teaching suggested by the references to arrive at the claimed invention.

For the reasons discussed above, Applicants respectfully submit that the Office has not presented a *prima facie* case of obviousness and the rejection under 35 U.S.C. 103(a) should be withdrawn.

In the rejection of independent claim 12, the final Office Action uses substantially the same arguments as set forth with regard to claim 1, alleging that claim 12 is obvious over the combination of Jannink and Boateng.

However, independent claim 12 must be interpreted according to the specific language in the claim.

Independent claim 12 is directed to a method for processing information in a database, comprising the features of the positions of said new data elements being randomly defined for processing information at each user request.

As discussed above, neither Jannink nor Boateng, singly or in combination, suggests such features of claim 1.

The Office acknowledges that Jannink does not teach the position of new data elements being randomly defined by the device for processing information at each user's request, and Boateng's display positions are fixed at certain locations on the display device. Thus, the combination of Jannink and Boateng does not suggest the positions of said new data elements being randomly defined.

Furthermore, as discussed above with respect to claim 1, it would not be obvious for one of ordinary skill to combine the features of Jannink and Boateng. Therefore, the Office has not presented a *prima facie* case of obviousness and the rejection of claim 12 under 35 U.S.C. 103(a) should be withdrawn.

Claims 2-7, 9-10, and 13 ultimately depend from and includes all the features of either allowable claim 1 or 12. Furthermore, each dependent claim includes additional distinguishing features. For each dependent claim, Applicants apply the above arguments from claim 1 or claim 12 to each respective dependent claim. Claim 11 includes features likewise not found in the combination of references, as discussed above. Thus, Applicants respectfully submit that dependent claims 2-7, 9-11, and 13 are allowable at least by virtue of their dependency on an allowable parent claim.

Applicants respectfully submit that the rejection of claims 1-7 and 9-13 under 35 U.S.C. §103(a) has been traversed and request the withdrawal of the rejections.

Dependent claim 8 depends from allowable claim 1 and incorporates all of the respective features of claim 1, in addition to containing further distinguishing patentable features.

Spratt does not cure the deficiencies of Jannink and Boateng as noted above with respect to claim 1.

Spratt discloses a method for selecting categorized content items for downloading to a mobile device. The method allegedly involves monitoring, use of content items and providing an indication of the use of the content items. However,

there is no hint or indication in Spratt's disclosure to randomly position the displayed data elements at each user request.

Therefore, for at least the same reasons discussed above with respect to claims 1, the combination of Jannink, Boateng, and Spratt does not teach or even suggest all the features of claim 8.

Hence, withdrawal of the rejection to claim 8 under 35 U.S.C. 103(a) and early allowance is respectfully requested.

Conclusion

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicant's attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Please charge any required additional fee or credit any overpayment to Deposit Account No. 07-0832.

Respectfully submitted,
Nadine Patry
David Bihanic
Thierry Viellard

/Reitseng Lin/
Reitseng Lin
Attorney for Applicants
Registration No. 42,804
609-734-6813

THOMSON Licensing Inc.
Patent Operation
PO Box 5312
Princeton, NJ 08543-5312

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